Chapter 1 Description of the Action

Introduction

The Bureau of Reclamation (Reclamation) and California Department of Water Resources (DWR), propose to operate the Central Valley Project (CVP) and State Water Project (SWP) to divert, store and convey CVP and SWP (Project) water consistent with applicable law. These operations are summarized in this biological assessment (BA) as well as described in more detail in the CVP Operating Criteria and Plan (OCAP).

The CVP and the SWP are two major inter-basin water storage and delivery systems that divert water from the southern portion of the Sacramento-San Joaquin Delta (Delta). Both projects include major reservoirs north of the Delta, and both transport water via natural watercourses and canal systems to areas south and west of the Delta. The CVP also includes facilities and operations on the Stanislaus and San JoaquinBoth projects are permitted by the California State Water Resources Control Board (SWRCB) to store water during wet periods, divert water that is surplus to the Delta, and re-divert project water that has been stored in upstream reservoirs. Rivers. The major facilities on these rivers are New Melones and Friant Dams respectively. Both projects operate pursuant to water rights issued by the SWRCB to appropriate unappropriated water by diverting to storage or by directly diverting to use and rediverting releases from storage later in the year. Unappropriated water is generally available during the winter and spring each year. As such, the SWRCB requires the projects to be jointly and separately responsible for meeting specific water quality, quantity, and operational criteria within the Delta. It is through SWRCB provisions that operation of the projects are closely coordinated.

[The proposed action in this consultation includes activities undertaken by DWR in operating the State Water project. As such DWR needs to consult with the California Department of Fish and Game, as may be appropriate, to address applicable requirements of the State Endangered Species Act. The final version of this biological assessment will describe the mechanisms/methods whereby this consultation will be accomplished.]

Summary of Legal and Statutory Authorities, Water Rights and Other Obligations Relevant to the Action

Introduction

Legal and statutory authorities and obligations, water rights, and other obligations guide the Project Agencies' proposed action. This section of the BA elaborates on those authorities, responsibilities, and obligations.

Legal and Statutory Authorities

CVP

The CVP is the largest federal Reclamation project and was originally authorized by the Rivers and Harbors Act of 1935. The CVP was reauthorized by the Rivers and Harbors Act of 1937 for the purposes of "improving navigation, regulating the flow of the San Joaquin River and the Sacramento River, controlling floods, providing for storage and for the delivery of the stored

waters thereof, for construction under the provisions of the Federal reclamation laws of such distribution systems as the Secretary of the Interior deems necessary in connection with lands for which said stored waters are to be delivered, for the reclamation of arid and semiarid lands and lands of Indian reservations, and other beneficial uses, and for the generation and sale of electric energy as a means of financially aiding and assisting such undertakings and in order to permit the full utilization of the works constructed." This Act provided that the dams and reservoirs of the CVP "shall be used, first, for river regulation, improvement of navigation and flood control; second, for irrigation and domestic uses; and, third, for power."

The CVP was reauthorized in 1992 through the Central Valley Project Improvement Act (CVPIA). CVPIA modified the 1937 Act and added mitigation, protection, and restoration of fish and wildlife as a project purpose. Further, CVPIA specified that the dams and reservoirs of the CVP should now be used "first, for river regulation, improvement of navigation, and flood control; second, for irrigation and domestic uses and fish and wildlife mitigation, protection and restoration purposes; and, third, for power and fish and wildlife enhancement."

CVPIA Section 3406(b)(1)(B) articulates Congressional intent for (b)(2) water to be used in conjunction with modification of the CVP operations and water acquisitions under Section 3406(b)(3), along with other restoration activities, to meet the fishery restoration goals of the CVPIA. The mandates in Section 3406 (b)(1) are implemented through the Anadromous Fish Restoration Program (AFRP). The AFRP objectives, as they relate to operations, are explained below. The Department of the Interior's Decision on Implementation of Section 3406 (b)(2) of the Central Valley Project Improvement Act dated May 9, 2003, provides for the dedication and management of 800,000 acre feet of CVP yield annually by implementing upstream and Delta actions.

Additionally, there have been several other statutes thatwhich have authorized the construction, operation and maintenance of various divisions of the CVP. In these authorizations, Congress has consistently included language directing the Secretary to operate the CVP as a single, integrated project.

SWP

DWR was established in 1956 as the successor to the Department of Public Works for authority over water resources and dams within California. DWR also succeeded to the Department of Finance's powers with respect to state application for the appropriation of water (Stats. 1956, First Ex. Sess., ch. 52; see also Wat. Code Sec.123) and has permits for appropriation from the SWRCB for use by the SWP. DWR's authority to construct state water facilities or projects is derived from the Central Valley Project Act (Wat. Code Sec. 11100 et seq.); the Burns-Porter Act (California Water Resources Development Bond Act) (Wat. Code Sec.12930-12944); the State Contract Act (Pub. Contract Code Sec. 10100 et seq.); the Davis-Dolwig Act (Wat. Code Sec. 11900-11925); and special acts of the State Legislature. Although the Federal government built certain facilities described in the Central Valley Project Act, the Act authorizes DWR to build facilities described in the Act and to issue bonds. (Warne v. Harkness (1963) 60 Cal.2d 579.) The Central Valley Project Act describes specific facilities that have been built by DWR, including the Feather River Project and California Aqueduct (Wat. Code Sec. 11260), Silverwood Lake (Wat. Code Sec. 11261), and the North Bay Aqueduct (Wat. Code Sec. 11270).

The Act allows DWR to administratively add other units (Wat. Code Sec. 11290) and develop power facilities (Wat. Code Sec. 11295).

The Burns-Porter Act, approved by the voters in November 1960, (Wat. Code Sec. 12930-12944) authorizes issuance of bonds for construction of the State Water Resources Development System, known as the SWP. The principal facilities of the SWP are Oroville and San Luis Dams, Delta facilities, the California Aqueduct, and the North and South Bay Aqueducts. The Burns-Porter Act incorporates the provisions of the Central Valley Project Act.

DWR is required to plan for recreational and fish and wildlife uses of water in connection with state-constructed water projects and can acquire land for such uses (Wat. Code Sec. 233, 345, 346, 12582). The Davis-Dolwig Act (Wat. Code Sec. 11900-11925) establishes the policy that preservation (mitigation) of fish and wildlife is part of state costs to be paid by water supply contractors and that recreation and the enhancement of fish and wildlife are to be provided by appropriations from the General Fund.

Water Rights

CVP

Federal law provides that Reclamation obtain water rights for its projects and administer its projects pursuant to state law relating the control, appropriation, use or distribution of water used in irrigation, unless the state law is inconsistent with express or clearly implied Congressional directives,. 43 U.S.C. §383; California v. United States, 438 U.S. 645, 678 (1978); appeal on remand, 694 F.2d 117 (1982). Reclamation must operate the CVP in a manner that does not impair senior or prior water rights.

USBRReclamation was issued water rights to appropriate water by the SWRCB for the CVP. Many of the rights for the CVP were issued pursuant to SWRCB Decision 990, adopted in February 1961. Several other decisions and SWRCB actions cover the remaining rights for the CVP. These rights contain terms and conditions that must be complied with in the operation of the CVP. Over time, SWRCB has issued further decisions that modify the terms and conditions of CVP water rights. In August 1978, SWRCB adopted the Water Quality Control Plan (WQCP) for the Delta and Suisun Marsh, which established revised water quality objectives for flow and salinity in the Delta and Suisun Marsh. In D-1485, also adopted in August 1978, SWRCB required USBRReclamation and DWR to operate the CVP and SWP to meet all the 1978 WQCP objectives, except some of the salinity objectives in the southern Delta. In 1991, the SWRCB adopted a water quality control plan which superseded parts of the 1978 plan, but SWRCB did not revise the water rights of DWR and USBRReclamation to reflect the objectives in the 1991 plan.

On May 22, 1995, SWRCB adopted a WQCP for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (1995 Bay-Delta Plan). The 1995 Bay-Delta Plan superseded both the 1978 and 1991 plans. On December 29, 1999, SWRCB adopted (and on March 15, 2000, revised) Decision 1641, amending certain terms and conditions of the water rights of the SWP and CVP. D-1641 substituted certain objectives adopted in the 1995 Bay-Delta Plan for water quality objectives required to be met as terms and conditions of the water rights of the SWP and CVP. Permit terms and requirements, as they relate to operations, are discussed below.

SWP

Under California law, diversions of appropriated water since 1914 require a permit from the SWRCB. DWR has SWRCB permits and licenses to appropriate water for the SWP. These permits have terms that must be followed by the DWR as the permit holder. The SWRCB has issued several decisions and orders that have modified DWR's permits, many of which are the same decisions and orders that affect Reclamation CVP operations, as described in CVP water rights above.

In addition, the SWRCB, November 1983, Decision 1594 and February 1984 Order WR 84-2 defining Standard Permit Term 91 to protect CVP and SWP stored water from diversion by others and influences DWR and Reclamation operations to meet Bay-Delta water quality requirements. Permit terms and requirements, as they relate to operations, are discussed in the OCAP.

Water Contracts

CVP

As the divisions of the CVP became operational, Reclamation entered into long-term contracts with water districts, irrigation districts, and others for delivery of CVP water. There are approximately 250 contracts that provide for varying amounts of water. Most of these contracts were for a term of 40 years and are in the process of being renegotiated. As appropriate Reclamation has executed interim water service contracts. Reclamation has an obligation to deliver water to the CVP contractors in accordance with contracts between Reclamation and the contractors.

Executing long-term contracts will be the subject of a separate Section 7 consultation and therefore is not included as part of the current proposed action.

SWP

In the 1960's DWR entered into long-term water supply contracts with 32 water districts or agencies to provide water from the SWP. Over the years, a few of these water agencies have been restructured and today DWR has long-term water supply contracts with 29 agencies and districts. These 29 contractors supply water to urban and agricultural water users in Northern California, the San Francisco Bay Area, the San Joaquin Valley, and Southern California. Of the contracted water supply, approximately two-thirds goes to municipal and industrial users and one-third goes to agricultural users. Through these contracts, the SWP provides a supplemental water supply to approximately two-thirds of California's population. The contracts are in effect for the longest of the following periods: the project repayment period which extends to the year 2035; 75 years from the date of the contract; or the period ending with the latest maturity date of any bond issued to finance project construction costs.

Power contracts

CVP

In 1967, the Secretary entered into Contract 2948A with Pacific Gas and Electric (PG&E).). The contract integrates the CVP generation resources with the PG&E generation system and in return PG&E provides, among other things, CVP load firming, CVP load following, and

transmission/distribution of CVP energy to CVP loads. The contract is administered on behalf of the United States by the Western Area Power Administration (Western). Reclamation and Western are currently planning for changes in power marketing and management anticipating the expiration of the contract on December 31, 2004.

A second contract with PG&E (Contract 2207A) provides for transmission wheeling of CVP generation to the San Luis pumping plants. This contract expires in 2016.

SWP

DWR has authority to include as part of SWP facilities the construction of such plants and works for generation of electric power and distribution and to enter into contracts for the sale, use and distribution of the power as DWR may determine to be necessary (Wat. Code Sec. 11295 and 11625). The SWP power plants generate about half of the energy it needs to move water within the State. Because the SWP consumes more power than it generates, it meets its remaining power needs by purchasing energy or making energy exchanges with other utilities.

Federal Power Act

SWP

DWR operates Oroville's facilities as a multipurpose water supply, flood management, power generation, recreation, fish and wildlife enhancement, and salinity control project. The Federal Power Act (FPA) requires that DWR have a license from the Federal Energy Regulatory Commission (FERC) to operate Oroville facilities. DWR operates Oroville facilities under a license issued by the Federal Power Commission, precursor to FERC, on February 11, 1957, for a term of 50 years. The operation license will expire on January 31, 2007. Under FPA and FERC, DWR must file an application for a new license (relicense) on or before January 31, 2005. DWR will be the Lead Agency for the preparation of an Environmental Impact Report (EIR) for California public agency approvals relating to environmental impacts associated with the proposed relicensing of Oroville's facilities power generation components.

On September 20, 2002, DWR issued a Final NEPA Scoping Document and CEQA Notice of Preparation for the relicensing effort. In order to identify issues, plan studies, and consider potential protection, mitigation, and enhancement measures, DWR, State and Federal agencies, Indian Tribes, local government officials, and interested members of the public are actively participating in the relicensing process as the Collaborative Team. On March 25, 2003, DWR released NEPA Scoping Document 2/Amended CEQA Notice of Preparation which describes in greater detail the alternatives DWR intends to analyze as part of the environmental review process. The Collaborative Team adopted a Process Protocol that sets forth the structure and procedures for the relicensing procedures.

Tribal Water Rights and Trust Resources

The Yurok and Hoopa Valley Tribes have fishing rights to take anadromous fish within their reservations,. memorandum from the Solicitor to the Secretary, Fishing Rights of the Yurok and Hoopa Valley Tribes, M-36979 (October 4, 1993). These rights were secured to the Yurok and Hoopa Valley Tribes through a series of nineteenth century executive orders. Their fishing rights "include the right to harvest quantities of fish on their reservations sufficient to support a moderate standard of living." Id. at 3.

The executive orders setting aside what are now the Yurok and Hoopa Valley Reservations also reserved rights to an instream flow of water sufficient to protect the Tribes' rights to take fish within their reservations. See Colville Confederated Tribes v. Walton, 647 F.2d 42, 48 (9th Cir.), cert. Denied, 454 U.S. 1092 (1981). Although the Tribes' water rights are presently unquantified, there are rights vested at the latest in 1891 and perhaps as early as 1855. See, e.g., United States v. Adair, 723 F.2d 1394 (9th Cir. 1983).

Other Agreements

Coordinated Operations Agreement (COA)

The CVP and SWP use the Sacramento River and the Delta as common conveyance facilities. Reservoir releases and Delta exports must be coordinated to ensure that the projects operate to agreed upon procedures.

The Agreement between the United States of America and the Department of Water Resources of the State of California for Coordinated Operation of the Central Valley Project and the State Water Project (COA) was signed in November 1986 (COA). Under the COA, Reclamation and DWR agree to operate the CVP and SWP in a manner to meet Sacramento Valley and Delta needs while maintaining their respective annual water supplies as identified in the agreement. Coordination between the two projects is facilitated by implementing an accounting procedure based on the sharing principles outlined in the COA. Although the principles were intended to cover a broad range of conditions, changes introduced by past NOAA Fisheries and FWS biological opinions, by the SWRCB D-1641, and by CVPIA were not specifically addressed by the COA. However, these variances have been addressed by Reclamation and DWR through mutual agreement.The Coordinated Operations Agreement for the CVP and the SWP between Reclamation and DWR was signed in November 1986. Under the COA, the Reclamation and DWR have agreed to specified coordinated operations in order to meet Sacramento Valley inbasin uses and maintain their respective annual water supplies as identified in the agreement. When water must be withdrawn from storage to meet Sacramento Valley and Delta requirements, 75% of the responsibility is borne by the CVP and 25% by the SWP. The agreement also provides that, when unstored water is available for export, 55% of the sum of stored water and the unstored export water is allocated to the CVP and 45% is allocated to the SWP. Some of the operational constraints introduced in past National Marine Fisheries Service (NOAA Fisheries) and U.S. Fish and Wildlife Service (FWS) biological opinions, by the SWRCB D-1641, and by CVPIA were not addressed by the COA, however, these variances have been addressed by Reclamation and DWR through mutual informal agreement.

CALFED

In the August 28, 2000 CALFED Record of Decision (ROD), Reclamation and other State and Federal agencies committed to implementing a long-term plan to restore the Bay-Delta. This plan consists of many activities including storage, conveyance, ecosystem restoration, levee integrity, watersheds, water supply reliability, water use efficiency, water quality, water transfers, and science.

Coordinated Water Operations

The Implementation Memorandum of Understanding (MOU), also signed August 28, 2000, memorialized the operations decision making process that had evolved through the CALFED

Ops Group process included an Operations Decision Making Process (Attachment D of the ROD). This process consists of staff, stakeholder, and policy level forums for addressing operational issues.

One of these forums, the Water Operations Management Team (WOMT), consists of managers of Reclamation, FWS, NOAA Fisheries, California Department of Fish and Game (DFG), DWR and the U.S. Environmental Protection Agency (EPA). WOMT provides a weekly frequent opportunity for managers to discuss CVP/SWP operations and related fishery issues.

The Ops Group was established by the 1994 Framework Agreement. The Ops Group consisting of (DWR, DFG, SWRCB, Reclamation, FWS, NOAA Fisheries, and EPA) coordinate the operations of the Projects with fisheries protection and implementation of the CVPIA. Shortly after its formation, the Ops Group provided a forum for stakeholders to provide input into the operations decision process. The Ops Group also established three teams to facilitate the decision-making process, data exchange, and information dissemination. The B2 Implementation Team (B2IT) to assist the Department of Interior (Interior) with implementation of CVPIA Section 3406(b)(2). The Data Assessment Team (DAT) is an agency-driven activity that includes participation by stakeholders to review biological data and provide input to Reclamation and DWR on actions to protect fish. The Operations and Fisheries Forum (OFF) is a stakeholder-driven forum to aid information dissemination and facilitate discussion regarding operation of the CVP and SWP, has been meeting since 1995.

The Ops Group developed and implements the Chinook Salmon Protection Decision Process. The process includes monitoring of environmental conditions and salmon movement, data assessment procedures, specific indicators that spring-run Chinook are entering the Delta from upstream or being entrained at the SWP or CVP export facilities, and operational responses to minimize the effects of SWP and CVP facilities on emigrating spring-run salmon. The Ops Group decision-making process is also used for protection of other Chinook salmon runs.

Environmental Water Account

The Environmental Water Account (EWA) is a cooperative management program described in the CALFED ROD. The purpose of EWA is to provide protection to the fish of the Bay-Delta estuary through environmentally beneficial changes in SWP/CVP operations at no uncompensated water cost to the projects water users. The EWA is intended to provide sufficient water (beyond what is available through existing regulatory actions related to project operations), combined with the Environmental Restoration Program and the regulatory baseline, to address the CALFED's fishery protection and restoration/recovery needs for the first four years of Stage 1. Before the EWA expires (September 30, 2004) the Management Agencies and Project Agencies will assess the success of EWA operations and analyze the potential impacts from new facilities and expanded conveyance capacity. The Agencies will then determine the appropriate size and composition of an EWA, as well as the EWA's sharing in the benefits from new facilities, in the fifth and future years. [CALFED ROD, Attachment 2,Environmental Water Account Operating Principles Agreement]

The use of EWA assets has been included in the operations studies to reflect current operational flexibility to reduce incidental take of listed species and, as noted above, to provide for restoration and recovery of such species. Inclusion of the EWA in this description of present and

also future actions for CVP and SWP operations does not represent a decision on the future implementation of EWA. Following an analysis of a future EWA or surrogate and a decision on long-term implementation of EWA, Reclamation and DWR will determine whether a new assessment of impacts to listed species under OCAP is warranted.

The modeling and biological assessments can only represent in a gross sense the annual and day-to-day use of the EWA in coordination with similar (b)(2) actions. Currently Reclamation and DWR must use forecasts of annual operations in concert with evaluations of annual (b)(2) and EWA assets to request ESA commitments from the FWS, NOAA Fisheries, and DFG. This commitment is accomplished through WOMT and Ops Group process to provide for daily management of operations and fishery. Based on this process, changes to the EWA that result in unanalyzed impacts to listed species will result in re-initiation of OCAP consultation.

Trinity

In December 2000, Interior signed the ROD on the Trinity River Mainstem Fishery Restoration EIS/EIR. The ROD was the culmination of years of studies on the Trinity River. The ROD adopted the preferred alternative, a suite of actions which included a variable annual flow regime, mechanical channel rehabilitation, sediment management, watershed restoration, and adaptive management.

The EIS/EIR was challenged in Federal District Court and litigation is ongoing. The District Court has limited the flows available to the Trinity River until preparation of a supplemental environmental document is completed. As a result of ongoing litigation, the flows described in the ROD may not be implemented at this time,. however, Reclamation is including the ROD flows as part of this proposed action on which Reclamation is consulting.

San Joaquin River Agreement

The San Joaquin River Agreement (SJRA) includes a 12-year experimental program providing for increased flows and decreased Delta exports in the lower San Joaquin River during a 31-day pulse flow period during April-May. It also provides for the collection of experimental data during that time to further the understanding of the effects of flows, exports, and the Head of Old River Barrier on salmon survival. This experimental program is commonly referred to as the Vernalis Adaptive Management Program (VAMP). The SJRA also provides water for flows at other times on the Stanislaus, Merced, and lower San Joaquin Rivers. SJRA established a management and technical committee to oversee, plan, and coordinate implementation of activities required under the agreement. Reclamation, DWR, FWS, DFG and NOAA Fisheries are signatories to the agreement, other signatories include San Joaquin River water rights holders, CVP and SWP water users, and other stakeholders. The signatory San Joaquin water right holders formed the San Joaquin River Group Authority to coordinate implementation of their responsibilities under the agreement. Up to 110,000 acre-feet may be provided for VAMP during April-May and an additional 27,500 acre-feet is provided at other times. In certain "double-step" years, up to an additional 47,000 acre-feet may need to be acquired to fully meet VAMP flow objectives. This water would be provided under supplemental agreements separate from the SJRA.

Sacramento Valley Water Management Program

In February 2003, Reclamation, FWS, DWR, DFG, state and federal water-supply contractors, Northern California Water Association and approximately 40 water districts and water users within the Sacramento River watershed signed a Settlement Agreement to resolve water right issues with respect to obligations to meet Delta water quality objectives. The Settlement Agreement establishes a collaborative process among the parties to promote better management of California's water resources and avoid prolonged litigation over water rights issues. The Settlement Agreement process calls for implementing multiple, short-term, ten-year, water management projects that will provide a source of new water to meet local water supply needs and to make water available during dry years to the SWP and CVP to assist in meeting SWRCB 1995 WQCP flow related objectives. The parties intend through development of multiple groundwater projects and storage release projects that the upstream water users will develop capacity to annually produce up to 185,000 acre feet of water that would otherwise not be available in the Sacramento River. The parties are preparing environmental documents and obtaining funding to implement the short-term projects and expect that in the spring of 2005 the program will begin. The program will be phased in over three years with up to 50,000 acre-feet the first year, 100,000 acre-feet the second year, and 185,000 acre-feet the following years with the potential that these maximum amounts of water could be transferred south of the Delta if pumping capacity is available.

Water Transfers

Water transfers relevant to this BA occur when a water user north of the Delta undertakes actions to make water available for transfer generally south of the Delta. Transfers requiring export from the Delta, such as north of Delta transfers for dry-year transfer programs, EWA, etc., are done at times when pumping capacity at the Federal and State pumping plants is available to move the water. Reclamation and DWR will work to facilitate transfers and will complete them in accordance with all existing regulations a requirements.

ESA

Federal agencies have an obligation to ensure that any discretionary action it authorizes, funds or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or destroy or adversely modify its critical habitat unless that activity is exempt pursuant to the ESA. 16 U.S.C. §1536 (a)(2); 50 CFR §402.03. Under section 7(a)(2), a discretionary agency action jeopardizes the continued existence of a species if it "reasonably would be expected, directly or indirectly, to reduce appreciably the survival and recovery of a listed species in the wild by reducing the reproduction, numbers, or distribution of the species" 50 CFR §402.02.

Through this consultation, Reclamation will comply with its obligations under the ESA, namely, to (1) avoid any discretionary action that is likely to jeopardize continued existence of listed species or adversely affect designated critical habitat; (2) take listed species only as permitted by the relevant Service; (3) and use Reclamation's authorities to conserve listed species. Reclamation also is proposing actions to benefit the species under its existing authorities and consistent with its 7(a)(1) obligation to conserve and protect listed species. Section 7(a)(1) alone does not give Reclamation additional authority to undertake any particular action, regardless of its potential benefit for endangered species.

The Proposed Action

The CVP is composed of some 20 reservoirs with a combined storage capacity of over 11 million acre-feet, 11 power plants, and over 500 miles of major canals and aqueducts (Figure 1-1). These various facilities are generally operated as an integrated project, although they are authorized and categorized in divisions (Figure 1-2). Authorized project purposes include flood control; navigation; provision of water for irrigation and domestic uses; fish and wildlife protection, restoration, and enhancement; and power generation. However, not all facilities are operated to meet each of these purposes. For example, flood control is not an authorized purpose of the CVP's Trinity River Division. The primary CVP purpose was to provide water for irrigation throughout California's Central Valley. The CVPIA has amended CVP authorizations to include fish and wildlife mitigation, protection, and restoration as purposes equal in priority to irrigation and domestic uses, and fish and wildlife enhancement as a purpose equal in priority to power generation.

The SWP stores and distributes water for agricultural, and municipal, and industrial uses in the northern Central Valley, the San Francisco Bay area, the San Joaquin Valley, the Central Coast, and Southern California. Other project functions include flood control, water quality maintenance, power generation, recreation, and fish and wildlife enhancement.

The proposed action is to continue to operate the CVP and SWP in the future as described in the OCAP. Thus, the OCAP serves as a comprehensive description of the proposed action. The Trinity River ROD and Freeport Regional Water Project, are included in the long-term operation of the CVP and SWP and therefore are part of this consultation.

Reclamation is currently preparing an EIS/EIR in cooperation with the Freeport Regional Water Authority (FRWA) which addresses a potential new diversion at Freeport in Sacramento County. This diversion would include East Bay Municipal Utility District's (EBMUD) exercising new diversions under its amended contract. Similar to the approach with Trinity, this action, while not being implemented at present, is part of the future proposed action on which Reclamation is consulting. Reclamation's proposed action relative to the FRWP is only the action of making the water available for diversion at Freeport. All site-specific/localized actions of the FRWP such as construction/screening and any other site-specific effects of the diversion facility are being addressed in a separate consultation.

Table 1–1 summarizes the proposed operational actions of the CVP and SWP covered by this consultation. Table 1–2 summarizes differences between current operational actions and future operational actions to be covered by this consultation.

Table 1–1 Proposed Operational Actions for Consultation

Action	Requirement for Action
I.Trinity River Division	-SWRCB Permit Order 124
Trinity lake operations	Safety Of Dams Criteria

Action	Requirement for Action
Lewiston Dam releases and Trinity River flows	-SWRCB permits for diversions from Trinity -2000 Trinity Record of Decision -Westlands Water District, et al., v. United States Dept. of the Interior (Trinity litigation)
Whiskeytown Dam releases to Clear Creek	-SWRCB permits for diversions from Trinity, Clear Creek (permits specify minimum downstream releases) -1960 Memorandum Of Agreement with DFG (Establishes minimum flows released to Clear Creek) -1963 release schedule -Consistent with Anadromous Fish Restoration Program (AFRP) objectives (Appendix A to the October 5, 1999 Decision on (b)(2) implementation) and (b)(2) availability -Stability Criteria -Thresholds of Trinity Storage
Townsend requirement	2000 Agreement with FWS ((b)(2))
Spring Creek Debris Dam operations	1980 Memorandum Of Understanding with DFG, SWRCB
Diversions to Sacramento River	-SWRCB WR 90-5 (temperature control objectives), SWRCB WR 91-1
Temperature Objectives	-SWRCB WR 90-5, SWRCB WR 91-1
II. Shasta Division	-SWRCB WR 90-5
Shasta Dam operations	- Regulating Criteria-Flood Control Act 1944 - CVPIA-Temperature Control Device Operations
Keswick Dam releases to Sacramento River Minimum flows of 3,250 cfs October through March	-1960 MOA with DFG: established flow objectives, minimum releases in dry, critical years -1981 agreement with DFG: established normal year minimum releases September-February -SWRCB WR 90-5: established year round minimum flows -AFRP (Appendix A to the October 5, 1999 Decision on (b)(2) implementation) and (b)(2) availability -Navigation flow requirement to Wilkins Slough

Action	Requirement for Action
	-CVPIA: ramping criteria consistent with 3406(b)(2) and 3406(b)(9)
III. Sacramento River Division	-SWRCB WR 90-5
Red Bluff Diversion Dam operations • Gates raised from September 15 to May 14 with flexibility to temporarily lower gates in excess of pumping capacity • Future installation of additional pump	-1986 Agreement with NOAA fisheries and others- gates raised in winter months for fish passage
Tehama Colusa Canal operations	-Temporary diversion from Black Butte Reservoir (SWRCB permit)
Sacramento River temperature objectives	-SWRCB WR 90-5:temperature objectives added to permits, modified 1960 Memorandum Of Understanding with DFG regarding minimum flows -SWRCB WR 91-1 (temperature objectives)
Sacramento-Trinity Water Quality Monitoring Network	-SWRCB WR 90-5, 91-1
Sacramento River Temperature Task Group	-SWRCB WR 90-5, 91-1
ACID Diversion Dam ops	USBRReclamation contract (water service and diversion)
IV. American River Division	
Folsom Dam and Power Plant Operations	-US Army Corps of Engineers Flood Control Manual, Flood Control Diagram (regulating criteria) -1996 Agreement with Sacramento Area Flood Control Association (modified flood control criteria) - AFRP (Appendix A to the October 5, 1999 Decision on (b)(2) implementation) and (b)(2) availability -Draft DFG criteria pursuant to CVPIA 3406(b)(9) (addressing flow fluctuations)

Action	Requirement for Action
	-SJSWD and other CVP Diversions
Nimbus Dam operations and Lower American River flows • Includes year round temperature control	- AFRP and (b)(2) availability: minimum flows October-September, stability objectives -Draft DFG criteria pursuant to CVPIA 3406(b)(9) (addressing flow fluctuations)
Folsom South Canal operations	-Contractual commitments
Freeport Regional Water Project	-Contract with East Bay Municipal Utility District -Sacramento County contract and water rights
V. Eastside Division	
New Melones Dam and Reservoir operations and Lower Stanislaus River flows below Goodwin Dam	-US Army Corps of Engineers Flood Control Manual, Flood Control Diagram (New Melones and Tulloch) -Oakdale Irrigation District, South San Joaquin Irrigation District contract (Tri-dams agreement for afterbay storage) -New Melones Interim Plan of Operation (includes AFRP flows with (b)(2) water) -1988 Oakdale Irrigation District, South San Joaquin Irrigation District Agreement and Stipulation (release of annual inflows for diversion) -SWRCB D-1422 (release of 98,000 acre feet for Fish and Wildlife purposes, dissolved oxygen standards at Ripon) -1987 DFG Agreement (increased flows over SWRCB D-1422) -1995 Water Quality Control Plan (minimum dissolved oxygen concentration) -1999 SJRA flows and water supplies -CVP Water Service contracts
Support of San Joaquin River requirements and objectives at Vernalis	-SWRCB D-1641 (Vernalis flow requirements February-June, Vernalis water quality objectives, San Joaquin River Agreement implementation) -CALFED Record Of Decision Regulatory Baseline (2:1 flow/export ratio met with (b)(2), EWA)
VI. Delta Division	-SWRCB D-1641

Action	Requirement for Action
Tracy Pumping plant • Pumping curtailments supported with (b)(2) or EWA assets	-Salmon Tree Decision -CVPIA - CALFED Record Of Decision and EWA Operating Prinicples
Delta Cross Channel Operation	-SWRCB D-1641(Delta Cross Channel closure: February-May, 14 days between May 21-June 15, 45 days between November-January) -Salmon Decision Tree
Contra Costa Canal Operations	-CVPIA (Fish Screen Program) -1993 Winter Run Chinook Salmon Biological Opinion for Los Vaqueros -1993 Delta Smelt Biological Opinion for Los Vaqueros (requires Old River diversions January-August to extent possible, diversion reduced during dry conditions, reservoir refilling criteria, reservoir releases in spring)
E/I ratio	-SWRCB D-1641
X2	-SWRCB D-1641
31 Day export limit (April 15-May 15)	-San Joaquin River Agreement- Vernalis Adaptive Management Plan -SWRCB D-1641
Delta Outflow	-SWRCB D-1641 (minimum outflow July-January: 3000-8000cfs, habitat protection outflow February-June: 7,100-29,200cfs, February Salinity Starting Condition Determination)
Water Quality	-SWRCB D-1641 (Municipal & Industrial standards, agricultural standards for Western/Interior delta and southern delta, Fish and Wildlife standards for San Joaquin River and Suisun Marsh)
JPOD	-SWRCB D-1641
VII. Friant Division	
Millerton Lake and Friant Dam operations	Corps of Engineers Flood Control Diagram, Mammoth Pool Operating Contract (with SCE), Water Deliveries (Class I, Class II, and Section 215 supply), San Joaquin River Water Rights (flow at Gravelly

Action	Requirement for Action
	Ford), Miller and Lux Water Rights exchange
Friant-Kern Canal operations	
Madera Canal operations	
VIII. West San Joaquin Division	
San Luis Reservoir	-1961 DWR/USBRReclamation Agreement (as amended)
San Luis Canal	
O'Neill forebay operations	
Dos Amigos Pumping Plant	
IX.San Felipe Division	
Pajaro Valley Water District	
Pacheco Pumping Plant	
Santa Clara Pipeline	
Hollister Conduit	
Coyote Pumping Plant	
X. Other	
Actions using (b)(1), (b)(2)	-CVPIA -AFRP -2003 Final Decision on (b)(2) Implementation.
EWA	-CALFED ROD and Programmatic BOs -EWA Operating Principles -CVPIA

Table 1–2 Proposed Future Changes in Operational Actions for Consultation

Area of Project	Today circa 2003	Future circa 2030
Trinity & Whiskeytown – Chap 3	368,600-452,600 acre-feet	368,600- 815,000 acre-feet
Shasta/Sacramento River – Chap 3	RBDD 8 months gates out	Same
Oroville and Feather River – Chap 4	Same	Same

Area of Project	Today circa 2003	Future circa 2030
Folsom and American River – Chap 3	Current Demands	Build out of demands and Freeport Regional Water Project
New Melones and Stanislaus – River Chap 3	Interim Plan of Operations	Same
Friant – Chap 3	Same	Same
Sacramento-San Joaquin Delta – Chap 3 (CVP) Chap 4 (SWP)	2001 Demands	2020 Demands
Suisun March – Chap 4	Same	Same
WQCP – Chap 2	Same	Same
COA – Chap 2	Same	Same
CVPIA – Chap 2	Oct 1999 Decision modified by Judge Wanger March 2002	May 9, 2003 Final Decision
CALFED – Chap 2	Same	Same